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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,353	01/14/2004	Helmut Gegalski	1-23211	3328

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EXAMINER	
HONG, JOHN C	

ART UNIT	PAPER NUMBER
3726	

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10/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/757,353	GEGALSKI ET AL.	
	Examiner	Art Unit	
	JOHN C. HONG	3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-10,15-18 and 23-28* is/are pending in the application.

4a) Of the above claim(s) *24-28* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-10,15-18,23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election with traverse of claims 1-5 and 7-10 in the reply filed on 7/2/08 is acknowledged. The traversal is on the ground(s) that the independent claim 1 is amended and there is no longer a basis for the requiring the restriction of the claims. This is not found persuasive because still the limitations of Species I are drawn to Fig. 2, and the Species II are drawn to Figs 3 and 3A which are distinct inventions.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Gatti et al. (U.S. Patent 4713714).

4. Gatti et al. disclose ;Regarding Claim(s) 15, a control unit assembly (Fig.2)comprising: an outer supporting structure (10) formed from a non-resilient material, the outer supporting structure having a base portion and a cylindrical threaded outer portion formed integrally with the base portion and extending from the base portion that is adapted to be attached to a vehicle; an inner supporting structure (20) that has a base portion and a cylindrical threaded inner portion formed integrally with the base portion and extending from the base portion; a layer of resilient material disposed between the base portion of the outer supporting structure and the base portion of the inner supporting structure (portion of 60,70), the layer of resilient material (50) forming an

insulative barrier between the outer supporting structure and the inner structure to prevent any direct contact therebetween whereby the resilient material absorbs noise and vibrations (Col. 2, lines 57-65); and a control unit for controlling a vehicle system having a threaded bore corresponding to the cylindrical threaded inner portion of the inner supporting structure formed therein, the threaded bore receiving the cylindrical threaded inner portion of the inner supporting structure such that the control unit is secured to the inner supporting structure.

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim1-5, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatti et al. (U.S. Patent 4713714) in view of Pavol (U.S. Patent 6445587).

Regarding Claim(s) 1,Gatii et al. teaches a mounting device for securing a control unit comprising: a one piece bracket outer supporting shell (10) formed from a non-resilient material that is adapted to be attached to a vehicle, the bracket including an open side adapted to receive the control unit(1); and a layer of resilient material (50) disposed within and attached to the outer shell, the resilient material also adapted to be placed in proximity to the control unit whereby the resilient material absorbs noise and vibrations (Fig. 2).

Gatti et al. fail to teach the resilient material covering substantially the entire surface of to supporting shell that is adjacent to the control unit.

Pavol teaches the resilient material (126) covering substantially the entire surface of to supporting shell that is adjacent to the control unit (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize the resilient material covering substantially the entire surface of to supporting shell that is adjacent to the control unit, as taught by Pavol on the apparatus of Gatti et al. so as to effectively dampen the induced shock and vibrations.

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Regarding Claim(s) 2, Gatti et al. teach the mounting device including an inner supporting structure (20) formed from a non-resilient material that is attached to a surface of the layer of resilient material that is opposite from the outer supporting shell (10), the inner structure including an open portion side adapted to receive and be attached to the control unit (Fig. 2).

Regarding Claim(s) 3 and 4, Gatti et al. teach the resilient material is a polymer that is attached to said outer supporting shell and said inner supporting structure ; and polymer is rubber and also outer supporting shell and the inner supporting structure are formed from steel(Col. 2, line 59).

Regarding Claim(s) 5, Pavol teaches layer of resilient material is adhesively bonded to both said outer supporting shell and said inner supporting structure (Col. 4, lines 29 and 30).

Regarding Claim(s) 8 -10, Pavol teaches the limitations (See rejection made on Claims 3-5).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gatti et al. /Pavol as applied to claim 4 above, and further in view of AAPA(Applicant's Admitted Prior Art).

Gatti et al. /Pavol teach the limitation except , the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit.

AAPA as disclosed in the specification [0004]-[0007] , teaches the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize the electro-hydraulic control unit, as taught by AAPA on the apparatus of Gatti et al. /Pavol so as to remove the vibration and noise.

8. Claims 16,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatti et al. in view of Pavol.

Regarding Claim(s) 16, Gatti et al. teach the limitation except a continuous layer of resilient material disposed within and attached to the outer bracket.

Pavol teaches a continuous layer of resilient material(126) disposed within and attached to the outer bracket (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize a continuous layer of resilient material disposed within and attached to said outer bracket, as taught by Pavol on the apparatus Gatti et al. so as to remove the vibration and noise.

Regarding Claim(s) 17, Gatti et al. teach an inner supporting structure (20) formed from a non-resilient material that is attached to a surface of the layer of resilient material that is opposite from said outer supporting shell, the inner supporting structure being attached to the control unit (Fig. 2).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gatti et al. in view of AAPA(Applicant's Admitted Prior Art).

Gatti et al. teach the limitation except , the control unit includes a hydraulic valve body attached to an electronic control unit to form an electro-hydraulic control unit, said electro-hydraulic control unit being attached to said inner supporting structure.

AAPA as disclosed in the specification [0004]-[0007] , teaches the control unit includes a hydraulic valve body attached to an electronic control unit to form an electro-hydraulic control unit, said electro- hydraulic control unit being attached to said inner supporting structure.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize the electro-hydraulic control unit, as taught by AAPA on the apparatus of Gatti et al. /Pavol so as to remove the vibration and noise.

Response to Arguments

10. Applicant's arguments with respect to claims 1-5,7-10,15-18 have been considered but are moot in view of the new ground(s) of rejection. See the new Office action.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN C. HONG whose telephone number is 571-272-4529. The examiner can normally be reached on M-F 9:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID BRYANT can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN C HONG/
Primary Examiner, Art Unit 3726

Jh
10/2/08